

McGLINCHEY STAFFORD

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Attorneys for Defendants

**OCWEN LOAN SERVICING, LLC AND WELLS FARGO BANK, N.A., AS
TRUSTEE FOR THE POOLING AND SERVICING AGREEMENT DATED
AS OF APRIL 1, 2005 PARK PLACE SECURITIES, INC. ASSET-BACKED
PASS-THROUGH CERTIFICATES SERIES 2005-WHQ2**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

JOSEPHINE CAMBA CONTE,

Plaintiff,

v.

WELLS FARGO BANK, N.A. AS
TRUSTEE FOR POOLING AND
SERVICE AGREEMENT, AS OF APRIL
1, 2005, 2005 PARK PLACE
SECURITIES, INC.; ASSET-BACKED
PASS-THROUGH CERTIFICATE SERIES
2005-WHQ2, BY OCWEN LOAN
SERVICING, LLC, ITS ATTORNEY IN
FACT, WESTERN PROGRESSIVE, LLC,
OCWEN LOAN SERVICING, LLC, ITS
ATTORNEY IN FACT, ALL PERSONS
UNKNOWN, CLAIMING ANY LEGAL
OR EQUITABLE RIGHT, TITLE,
ESTATE, LIEN, OR INTEREST IN THE
PROPERTY DESCRIBED IN THE
COMPLAINT ADVERSE TO
PLAINTIFF'S TITLE, OR ANY CLOUD
ON PLAINTIFF'S TITLE THERETO IN
THE SUBJECT PROPERTY LOCATED
AT 153 S. HOBART BOULEVARD, LOS
ANGELES, CALIFORNIA 90004, DOES
1-50 Inclusive, APN.5517-012-024

Defendants.

Case No.: 2:17-cv-05373-PA-GJS

Assigned to Judge Percy Anderson
Mag. Judge Gail J. Standish

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS**

*[Concurrently filed with Motion to
Dismiss; [Proposed] Order]*

DATE: August 28, 2017
TIME: 1:30 p.m.
CRTM.: 9A

State Court Case No. BC662371
Action Filed: May 23, 2017

Pursuant to Federal Rules of Evidence 201, Defendants Ocwen Loan Servicing, LLC (“Ocwen”) and Wells Fargo Bank, N.A., as Trustee for the Pooling and Servicing Agreement Dated As Of April 1, 2005 Park Place Securities, Inc. Asset-Backed Pass-Through Certificates Series 2005-WHQ2 (collectively, “Defendants”) hereby respectfully request that the Court take judicial notice of the following documents which are submitted in support of their concurrently-filed Motion for Judgment on the Pleading against the Complaint filed by Plaintiff Josephine Camba Conte (“Plaintiff”):

1. Attached hereto as **Exhibit “1”** is a true and correct copy of the applicable Deed of Trust recorded in the Los Angeles County, California Recorder’s Office on January 5, 2005, as DOC # 05-0030030.

2. Attached hereto as **Exhibit “2”** is a true and correct copy of the applicable Assignment of Deed of Trust recorded in the Los Angeles County, California Recorder’s Office on January 6, 2009, as DOC # 20090013813.

3. Attached hereto as **Exhibit “3”** is a true and correct copy of the applicable Assignment of Deed of Trust recorded in the Los Angeles County, California Recorder’s Office on June 4, 2013, as DOC # 20130830381.

4. Attached hereto as **Exhibit “4”** is a true and correct copy of the applicable Grant Deed recorded in the Los Angeles County, California Recorder’s Office on September 28, 2010, as DOC # 20101380481.

5. Attached hereto as **Exhibit “5”** is a true and correct copy of the applicable Notice of Default and Election to Sell Under Deed of Trust recorded in the Los Angeles County, California Recorder’s Office on July 20, 2011, as DOC # 20110968395.

6. Attached hereto as **Exhibit “6”** is a true and correct copy of the applicable Notice of Trustee’s Sale recorded in the Los Angeles County, California Recorder’s Office on October 24, 2011, as DOC # 20111434087.

7. Attached hereto as **Exhibit “7”** is a true and correct copy of the Chapter

1 13 Voluntary Petition filed by Jo Ann Conte in the U.S. Bankruptcy Court for the
2 Central District of California on November 14, 2011, Case No. 2:11-bk-56903-SK.

3 8. Attached hereto as **Exhibit “8”** is a true and correct copy of the Order
4 and Notice of Dismissal for Failure to Appear at 341(a) Meeting of Creditors entered
5 by the U.S. Bankruptcy Court for the Central District of California on December 27,
6 2011, Case No. 2:11-bk-56903-SK.

7 9. Attached hereto as **Exhibit “9”** is a true and correct copy of the
8 applicable Notice of Trustee’s Sale recorded in the Los Angeles County, California
9 Recorder’s Office on April 4, 2012, as DOC # 20120509844.

10 10. Attached hereto as **Exhibit “10”** is a true and correct copy of the Chapter
11 13 Voluntary Petition filed by Jo Ann Conte in the U.S. Bankruptcy Court for the
12 Central District of California on April 10, 2012, Case No. 2:12-bk-22687-VZ.

13 11. Attached hereto as **Exhibit “11”** is a true and correct copy of the Order
14 and Notice of Dismissal entered by the U.S. Bankruptcy Court for the Central District
15 of California on October 24, 2012, Case No. 2:12-bk-22687-VZ.

16 12. Attached hereto as **Exhibit “12”** is a true and correct copy of the
17 applicable Notice of Trustee’s Sale recorded in the Los Angeles County, California
18 Recorder’s Office on November 13, 2012, as DOC # 20121714816.

19 13. Attached hereto as **Exhibit “13”** is a true and correct copy of the Chapter
20 13 Voluntary Petition filed by Plaintiff Josephine Camba Conte (“Plaintiff”) in the
21 U.S. Bankruptcy Court for the Central District of California on December 3, 2012,
22 Case No. 2:12-bk-29853-SK.

23 14. Attached hereto as **Exhibit “14”** is a true and correct copy of the Order
24 and Notice of Dismissal entered by the U.S. Bankruptcy Court for the Central District
25 of California on February 25, 2013, Case No. 2:12-bk-29853-SK.

26 15. Attached hereto as **Exhibit “15”** is a true and correct copy of the
27 applicable Grant Deed recorded in the Los Angeles County, California Recorder’s
28 Office on July 9, 2013, as DOC # 20131008281.

1 16. Attached hereto as **Exhibit “16”** is a true and correct copy of the Case
2 Docket in the Chapter 13 Bankruptcy Case filed by Plaintiff in the U.S. Bankruptcy
3 Court for the Central District of California on March 4, 2013, Case No. 2:13-bk-
4 15581-VZ.

5 17. Attached hereto as **Exhibit “17”** is a true and correct copy of the Case
6 Docket in the Chapter 13 Bankruptcy Case filed by Plaintiff in the U.S. Bankruptcy
7 Court for the Central District of California on July 2, 2013, Case No. 2:13-bk-27149-
8 NB.

9 18. Attached hereto as **Exhibit “18”** is a true and correct copy of the Case
10 Docket in the Chapter 13 Bankruptcy Case filed by Plaintiff in the U.S. Bankruptcy
11 Court for the Central District of California on July 2, 2014, Case No. 2:14-bk-22785-
12 WB.

13 19. Attached hereto as **Exhibit “19”** is a true and correct copy of the Case
14 Docket in the Chapter 13 Bankruptcy Case filed by Plaintiff in the U.S. Bankruptcy
15 Court for the Central District of California on October 2, 2014, Case No. 2:14-bk-
16 28786-VZ.

17 20. Attached hereto as **Exhibit “20”** is a true and correct copy of the Case
18 Docket in the Chapter 13 Bankruptcy Case filed by Plaintiff in the U.S. Bankruptcy
19 Court for the Central District of California on October 27, 2015, Case No. 2:15-bk-
20 26474-VZ.

21 21. Attached hereto as **Exhibit “21”** is a true and correct copy of the Order
22 and Notice of Dismissal entered by the U.S. Bankruptcy Court for the Central District
23 of California on May 10, 2016, Case No. 2:15-bk-26474-VZ.

24 22. Attached hereto as **Exhibit “22”** is a true and correct copy of the
25 applicable Notice of Default and Election to Sell Under Deed of Trust recorded in the
26 Los Angeles County, California Recorder’s Office on October 25, 2016, as DOC #
27 20161312894.
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23. Attached hereto as **Exhibit “23”** is a true and correct copy of the applicable Notice of Trustee’s Sale recorded in the Los Angeles County, California Recorder’s Office on January 30, 2017, as DOC # 20170120279.

24. Attached hereto as **Exhibit “24”** is a true and correct copy of the applicable Grant Deed recorded in the Los Angeles County, California Recorder’s Office on March 13, 2017, as DOC # 20170286688.

25. Attached hereto as **Exhibit “25”** is a true and correct copy of the Chapter 13 Voluntary Petition filed by Helen Aquino in the U.S. Bankruptcy Court for the Central District of California on March 13, 2017, Case No. 2:17-bk-13021-SK.

26. Attached hereto as **Exhibit “26”** is a true and correct copy of the Order and Notice of Dismissal entered by the U.S. Bankruptcy Court for the Central District of California on May 17, 2017, Case No. 2:17-bk-13021-SK.

Exhibits 1-6, 9, 12, 15, 22-24 are judicially-noticeable as publicly-available materials that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). *See e.g., Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n. 6 (9th Cir.2006) (taking judicial notice of court filings); *Collazo v. Fed. Nat. Mortgage Ass’n Corp.*, 2013 WL 2317798 *1 (C.D. Cal. May 28, 2013) (taking judicial notice of “documents that were recorded in the Los Angeles County Recorder’s Office” as matters of public record); *HPG Corp. v. Aurora Loan Servs., LLC*, 436 B.R. 569, 576 (E.D. Cal. 2010) (taking judicial notice of “deeds of trust, the substitutions of trustee, the notice of default, and the trustee’s deeds upon sale”).

Exhibits 7, 8, 10, 11, 13, 14, 16-21, 25, and 26 are also judicially-noticeable as publicly-available materials that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). Indeed, it is well-settled that court filings, including filings made in a bankruptcy proceeding, are subject to judicial notice. *Duke Energy Trading & Marketing, L.L.C. v. Davis*, 267 F.3d 1042, 1048 n. 1 (9th Cir. 2001) (granting judicial

1 notice of filings made in related bankruptcy proceeding); *Chavarria v. Wells Fargo*
2 *Bank, N.A.*, 2015 WL 4768227, at *1 (C.D. Cal. Aug. 11, 2015) (taking judicial notice
3 of “court filings filed in the United States Bankruptcy Court”); *Johnston v. Discover*
4 *Bank*, 2011 WL 2420216, at *1 (C.D. Cal. June 16, 2011) (taking judicial notice of
5 voluntary petition and order dismissing case in bankruptcy proceeding.)
6

7 DATED: July 27, 2017

McGLINCHEY STAFFORD

9 By: /s/ Kevin S. Kim

10 KEVIN S. KIM

BRIAN A. PAINO

Attorneys for Defendants

11 **OCWEN LOAN SERVICING, LLC AND**
12 **WELLS FARGO BANK, N.A., AS**
13 **TRUSTEE FOR THE POOLING AND**
14 **SERVICING AGREEMENT DATES AS**
15 **OF APRIL 1, 2005 PARK PLACE**
16 **SECURITIES, INC. ASSET-BACKED**
17 **PASS-THROUGH CERTIFICATES**
18 **SERIES 2005-WHQ2**
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PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.

I, Stephanie Elizondo, declare:

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18201 Von Karman Ave., Suite 350, Irvine, California 92612.

On July 27, 2017, I served the document(s) described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS** as follows:

☒ **BY MAIL:** As follows:

☒ **FEDERAL** – I deposited such envelope in the U.S. mail at Irvine, California, with postage thereon fully prepaid,

☐ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I caused said document(s) to be served by means of this Court's Electronic transmission of the Notice of Electronic Filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF users set forth in the service list obtained from this Court. Pursuant to Electronic Filing Court Order, I hereby certify that the above documents(s) was uploaded to the website and will be posted on the website by the close of the next business day and the webmaster will give e-mail notification to all parties.

☒ **FEDERAL:** I declare that I employed in the office of a member of the State Bar of this Court at whose direction the service was made.

Executed on July 27, 2017, at Irvine, California.

Stephanie Elizondo
Stephanie Elizondo

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SERVICE LIST
USDC, Central District Case No. 2:17-cv-05373-PA-GJS
JOSEPHINE CAMBA CONTE v. WELLS FARGO BANK, N.A., et al.
File # 104938.2106

Josephine Camba Conte
153 S. Hobart Boulevard
Los Angeles, CA 90004

Plaintiff In Pro Per
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